

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

Richard Katz,
Plaintiff,

Case No.: **3:15-cv-01187**

**SECOND ADDENDUM TO THE
MOTION TO FILE SECOND
AMENDED COMPLAINT**

v.

**EIGHTH CAUSE OF ACTION
[DISCRIMINATION PURSUANT
TO § 504 OF THE
REHABILITATION ACT OF
1973]**

National Board of Medical Examiners (NBME),
and
Federation of State Medical Boards (FSMB)
Defendants.

EIGHTH CAUSE OF ACTION

**[DISCRIMINATION PURSUANT TO § 504 OF THE REHABILITATION ACT OF 1973,
AS AMENDED, 29 U.S.C. § 794]**

Section 504 of the Rehabilitation Act specifically prohibits discrimination against individuals with disabilities in programs receiving federal funds. Both NBME and FSMB are recipients of Federal Funds. Section 504 covers individuals who have physical or mental impairments that are substantially limited by one or more major life activities, have a record of such impairments, or

are regarded as having such impairments. Richard Katz satisfies all three criteria due to his disability (bipolar disorder).

NBME/FSMB violated Katz's rights under § 504 by refusing to accommodate his disability, and by barring him from registering for USMLE Step I because of their 'Six Attempt Limit Rule.'

§ 504 of the Rehabilitation Act provides:

“No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance”

Section 504, 29 U.S.C. § 794

Katz exhausted all administrative remedies prior to filing this suit, he clearly asked defendants to accommodate his disabilities in his April 1st 2014 Appeal (see Documents 1-2 Pages 1-29). He needed extra time during his medical licensing exams because his disability prevented him from processing all of the exam questions in the time permitted under regular exam conditions. This request was denied on April 17, 2014 by the office of the USMLE Secretariat (Document 1-4 Page 1). Katz responded with a second Appeal of the April 17, 2014 denial on April 20, 2014 to NBME Disability Services regarding the injustice of 'The Six Attempt Limit Rule' for people with disabilities. Compliance Officer for NBME Disability Services Catherine Farmer never responded to Katz's second Appeal (see Documents 1-4 Pages 2-4).

The Rehabilitation Act requires defendants to grant Katz's requests to waive 'The Six Attempt Limit Rule' and to provide double time and a separate testing area for him to take his examinations. It also requires defendants to provide Katz additional time (double time) for writing his Patient Note on the USMLE Step 2 CS exam.

Remedies for violations of § 504 of the Rehabilitation Act include declaratory judgments, injunctions (including preliminary injunctions and temporary restraining orders, where appropriate), costs, and attorney fees at market rates. Money damages may also be available¹.

See, e.g., *Ferguson v. City of Phoenix*, 157 F.3d 668, 674 (9th Cir. 1998).

Proof of Federal Funding NBME:

www.usaspending.gov/Pages/AdvancedSearch.aspx?k=national%20board%20of%20medical%20examiners

Filters: national board of medical examiners; C, G, L, O; FY 2016, FY 2015, FY 2014, FY 2013, FY 2012, FY 2011, FY 2010, FY 2009, FY 2008

Total Number of Transactions
29

Total Prime Recipient Transaction Amount
\$639,012

Total Sub-Award Transaction Amount
\$0

29 Contracts

0 Grants

0 Loans

0 Other Financial Assistance

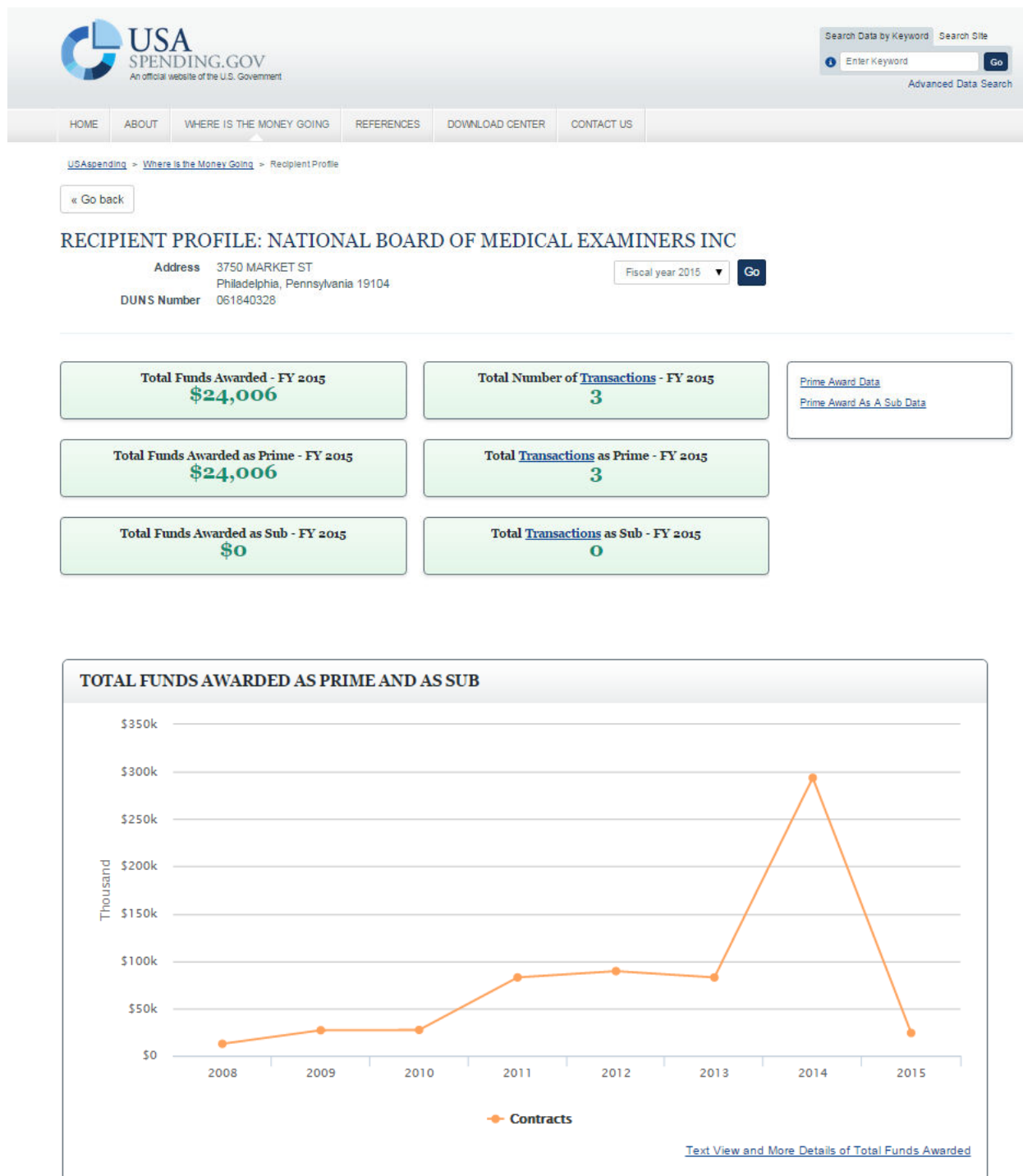
SEARCH RESULTS

1 to 29 of 29 transactions.

Download Results

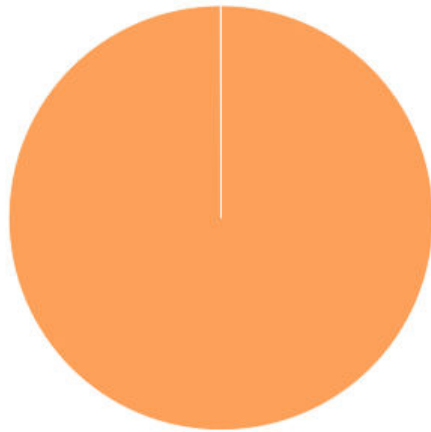
Recipient *	Award ID *	Award Amount *	Award Date *	Award Type *	Awarding Agency *	Funding Agency *	Role *
AXIOM RESOURCE MANAGEMENT INCORPORATED	DTMC7507D00013	\$0	09/11/2009	Contracts	Department of Transportation	Department of Transportation	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HT940413M/521	\$72,375	05/02/2013	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HT940413M/0513	\$10,320	12/28/2012	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HU000110M/815	\$8,270	12/23/2009	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HU000110M/172	\$13,860	04/02/2010	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HU000114M/317	\$76,810	07/11/2014	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HU000110M/803	\$7,095	11/24/2009	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	VA74114P0008	\$198,008	11/27/2013	Contracts	Department of Veterans Affairs	Department of Veterans Affairs	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HU000111M/313	\$0	04/28/2011	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HU000111M/801	\$37,584	09/01/2011	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	VA74114P0008	\$0	12/01/2014	Contracts	Department of Veterans Affairs	Department of Veterans Affairs	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HU000111M/577	\$3,071	04/14/2011	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HU000111M/313	\$9,000	04/20/2011	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HU000111M/258	\$7,290	01/20/2011	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HU000111M/353	\$7,460	12/22/2010	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HU000111M/517	\$3,330	02/24/2011	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HU000111M/588	\$7,480	04/07/2011	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HU000111M/589	\$7,480	04/07/2011	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HU000108M/825	\$8,200	03/03/2008	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HU000108M/149	\$8,350	05/08/2008	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HU000109M/204	\$8,720	11/07/2008	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HU000109M/510	\$8,720	11/20/2008	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HU000109M/543	\$13,440	02/11/2009	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HT940412M/484	\$71,585	05/11/2012	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HT940412M/457	\$7,700	11/21/2011	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HT940412M/0271	\$10,080	04/28/2012	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HU000115M/253	\$4,758	12/23/2014	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HU000115M/303	\$19,250	12/17/2014	Contracts	Department of Defense	Department of Defense	Prime
NATIONAL BOARD OF MEDICAL EXAMINERS INC	HU000114M/342	\$21,000	12/09/2013	Contracts	Department of Defense	Department of Defense	Prime

usaspending.gov/transparency/Pages/RecipientProfile.aspx?DUNSNumber=061840328&FiscalYear=2015



PRIME AWARD DATA

PRIME AWARDS BY SPENDING TYPE



Contracts

[Text View of Prime Awards By Spending Type](#)

PRIME'S SUB-AWARDEES

No Data Found

TOP PRODUCTS OR SERVICES

1. Education Services	\$19,250
2. Personnel Testing	\$4,756
3. Other Education and Training Services	\$0

[Text View and More Details on Top Products/Services](#)

AWARDING AGENCIES

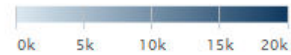
1. Department of Defense	\$24,006
2. Department of Veterans Affairs	\$0

[Text View and More Details on Awarding Agencies](#)

TOP PROGRAMS

No Data Found

AWARDS BY STATES



1. Pennsylvania	\$19,250
2. Maryland	\$4,756

[Text View and More Details on Awards by States](#)

Proof of Federal Funding FSMB:

**[www.usaspending.gov/Pages/AdvancedSearch.aspx?k=Federation % 20of % 20State % 20Me
dical % 20Boards](http://www.usaspending.gov/Pages/AdvancedSearch.aspx?k=Federation%20of%20State%20Medical%20Boards)**

The screenshot shows the USA Spending.gov Advanced Data Search interface. The search criteria are set to "Federation of State Medical Boards; C, G, L, O; FY 2016, FY 2015, FY 2014, FY 2013, FY 2012, FY 2011, FY 2010, FY 2009, FY 2008". The results summary shows 622 total transactions, with a total prime recipient transaction amount of \$4,190,947 and a total sub-award transaction amount of \$0. The search results table lists 10 transactions, all of which are grants awarded to the Federation of State Medical Boards of the U.S. by the Department of Health and Human Services.

Recipient	Award ID	Award Amount	Award Date	Award Type	Awarding Agency	Funding Agency	Role
Federation of State Medical Boards of the U.S	H1MIT15212	(\$27,194)	02/18/2015	Grants	Department of Health and Human Services	N/A	Prime
Federation of State Medical Boards of the U.S	H1MRH24097	\$225,446	07/08/2015	Grants	Department of Health and Human Services	N/A	Prime
Federation of State Medical Boards of the U.S	H1MRH24097	\$350,000	06/27/2014	Grants	Department of Health and Human Services	N/A	Prime
Federation of State Medical Boards of the U.S	H1MIT15212	\$350,000	08/31/2011	Grants	Department of Health and Human Services	N/A	Prime
Federation of State Medical Boards of the U.S	H1MRH24097	\$350,000	08/14/2013	Grants	Department of Health and Human Services	N/A	Prime
Federation of State Medical Boards of the U.S	H1MTH07730	\$309,196	08/29/2008	Grants	Department of Health and Human Services	N/A	Prime
Federation of State Medical Boards of the U.S	H1MRH24097	\$70,000	09/18/2013	Grants	Department of Health and Human Services	N/A	Prime
Federation of State Medical Boards of the U.S	H1MIT15212	\$350,000	08/06/2009	Grants	Department of Health and Human Services	N/A	Prime
Federation of State Medical Boards of the U.S	H1NRH17207	\$499,900	02/25/2010	Grants	Department of Health and Human Services	N/A	Prime
Federation of State Medical Boards of the U.S	H1MRH24097	\$50,000	09/24/2014	Grants	Department of Health and Human Services	N/A	Prime
Federation of State Medical Boards of the U.S	H1MIT15212	\$350,000	08/25/2010	Grants	Department of Health and Human Services	N/A	Prime

www.usaspending.gov/transparency/Pages/RecipientProfile.aspx?DUNSNumber=051010890&FiscalYear=2015

NOTE: You must click [here](#) for very important O&B information.

USA SPENDING.GOV
An official website of the U.S. Government

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Enter Keyword
Advanced Data Search

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[Go back](#)

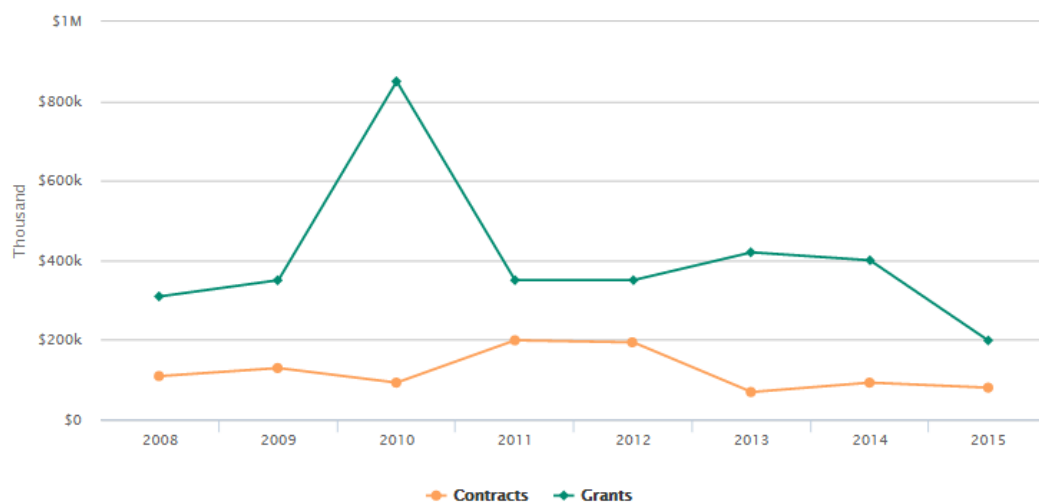
RECIPIENT PROFILE: FEDERATION OF STATE MEDICAL BOARDS OF THE UNITED STATES, INCORPORATED, THE

Address 400 FULLER WISER RD STE 300
Euless, Texas 76039
DUNS Number 051010890

Fiscal year 2015

Total Funds Awarded - FY 2015 \$277,952	Total Number of Transactions - FY 2015 4	Prime Award Data Prime Award As A Sub Data
Total Funds Awarded as Prime - FY 2015 \$277,952	Total Transactions as Prime - FY 2015 4	
Total Funds Awarded as Sub - FY 2015 \$0	Total Transactions as Sub - FY 2015 0	

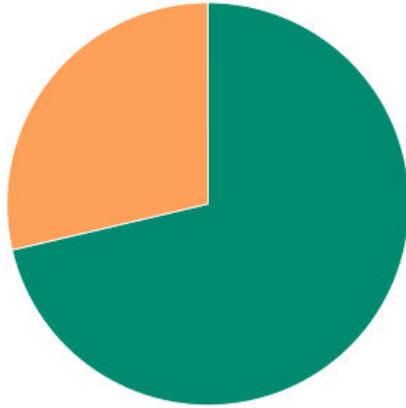
TOTAL FUNDS AWARDED AS PRIME AND AS SUB



[Text View and More Details of Total Funds Awarded](#)

PRIME AWARD DATA

PRIME AWARDS BY SPENDING TYPE



■ Contracts
 ■ Grants

[Text View of Prime Awards By Spending Type](#)

PRIME'S SUB-AWARDEES

No Data Found

TOP PRODUCTS OR SERVICES

1. Other Professional Services \$79,700

[Text View and More Details on Top Products/Services](#)

AWARDING AGENCIES

1. Department of Health and Human Services \$198,252

2. Department of Veterans Affairs \$79,700

[Text View and More Details on Awarding Agencies](#)

TOP PROGRAMS

1. Telehealth Programs \$198,252

[Text View of Top Programs](#)

AWARDS BY STATES



0k 50k 100k 150k 200k

1. [Texas](#) \$198,252

2. [District of Columbia](#) \$79,700

[Text View and More Details on Awards by States](#)